

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

BITUMINOUS CASUALTY CORPORATION,)
)
Plaintiff,)
)
v.) No.: 3:09-CV-60
) (VARLAN/SHIRLEY)
WALDEN RESOURCES, LLC, *et al.*,)
)
Defendants.)

ORDER

This civil action is before the Court on the following: plaintiff's Motion for Voluntary Dismissal [Doc. 128]; Defendant Lexington Insurance Company, Superior Well Services, and Griffith Service LLC Inc. Motion for Withdraw of Their Motion for Reconsideration of this Court's Memorandum Opinion and Order of November 19, 2009 [Doc. 126]; and Defendant Jonathan Vann's Notice Withdrawing Pending Motion for Reconsideration of this Court's Granting of Defendants National Pollution Funds Center and the United States Environmental Protection Agency's Motion to Dismiss [Doc. 127].

In plaintiff's motion, plaintiff submits that "the policies providing coverage for the incident at issue have been exhausted, and that there is therefore nothing left to determine regarding them" [Doc. 128]. It therefore requests that the Court enter an order of voluntary dismissal pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure [*Id.*] Lexington

Insurance Company, Superior Well Services, Inc., and Griffith Service LLC¹ request that the Court withdraw their motion for reconsideration of this Court's memorandum opinion and order of November 19, 2009 because the case has been resolved [Doc. 126]. Jonathan Vann² requests that the Court withdraw his motion for reconsideration of this Court's granting of defendants National Pollution Funds Center and the United States Environmental Protection Agency's motion to dismiss without reason [Doc. 127]. No responses have been filed, and the time for doing so has passed. *See* E.D. TN. LR 7.1(a), 7.2.

The Court finds that plaintiff's request for an order of voluntary dismissal [Doc. 128] is well-taken and is hereby **GRANTED**. Accordingly, pursuant to Federal Rule of Civil Procedure 41(a)(2), plaintiff's claims against all remaining defendants are hereby **DISMISSED without prejudice**. The requests to withdraw the motions for reconsideration [Docs. 126, 127] are **DENIED AS MOOT**. The clerk is **DIRECTED** to close this case.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE

¹ Lexington Insurance Company, Superior Well Services, Inc., and Griffith Service LLC were dismissed from this case on July 13, 2010 pursuant to agreed orders of dismissal [Docs. 118, 119, and 122].

² Jonathan Vann was dismissed from this case on July 9, 2010 pursuant to an agreed order of dismissal [Doc. 117].